



Texas Public Policy Foundation

February 9, 2022

Submitted via FOIA Online

National Freedom of Information Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW (2310A)
Washington, DC 20460
hq.foia@epa.gov

RE: Request for Certain Agency Records – Communications Between EPA Principal Deputy General Counsel, Melissa Hoffer

Dear Freedom of Information Act Officer:

Life:Powered, a national initiative of the Texas Public Policy Foundation, submits this request pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.* Life:Powered seeks to inform the national discussion about energy and the environment and advocate for policies that promote economic freedom and advance the human condition.

Please provide us with the following records:

1. All records that are or include communications between EPA Principal Deputy General Counsel, Melissa Hoffer and any employee of the Commonwealth of Massachusetts (“Massachusetts employee”), including any communications between Ms. Hoffer and any email address containing “mass.gov” from January 1, 2021 through the date of this request.
2. All records that reflect any meetings between EPA Principal Deputy General Counsel, Melissa Hoffer, and any Massachusetts employee, including any communications regarding such meetings with any email address containing “mass.gov” from January 1, 2021 through the date of this request.
3. All records that are or include communications between any EPA employee in the office of EPA Principal Deputy General Counsel and any Massachusetts employee, including any communications between any employee in the office of the Principal Deputy General Counsel and any email address containing “mass.gov” from January 1, 2021 through the date of this request.
4. All records that reflect any meetings between any EPA employee in the office of EPA Principal Deputy General Counsel and any Massachusetts employee, including any related

communications with any email address containing “mass.gov” from January 1, 2021 through the date of this request.

For the purposes of this request, “**records**” means documents, information, memoranda, letters, reports, drafts, communications, records of communications, telephone message records, calendars, agendas, meeting sign-in sheets, presentations, handwritten or typed notes, facsimile transmissions, electronic mail, transcripts or recordings (audio or visual) of meetings, tapes, and all other types of records in the possession, control or custody of the Agency or contractors working for the Agency. “**Communications**” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). “**Meetings**” means communication in-person or through video or telephone calls between two or more people and includes records memorializing the time and date of meetings or invitations to join meetings, including appointments and events identified in calendar software (such as Microsoft Outlook or iCalendar) or on physical calendars. “**EPA employees**” means both career staff and political appointees. Additionally, “**Massachusetts employee**” means any individual employed by the Commonwealth of Massachusetts from January 1, 2021 through the date of this request.

For all records responsive to these requests that are not produced based on an asserted exemption from disclosure, please prepare a privilege and/or exemption log describing at a minimum: (i) the type of record withheld, (ii) the date(s) of the creation of the record; (iii) the subject of the record, (iv) the identity of the author and all recipients of the records; and (v) a detailed description of the basis upon which the Agency is withholding the record (*e.g.*, the claim of privilege, FOIA exemption, etc.). To the extent any responsive documents are withheld based upon a claim of privilege or other exemption from disclosure, please produce redacted copies of all non-privileged or non-exempt factual material contained within such documents. 5 U.S.C. § 552(b).

Pursuant to FOIA and EPA regulations, the Agency has 20 days to fulfill this request. 5 U.S.C. § 552(a)(6)(A); 40 C.F.R. § 2.104. If it is not possible to provide all the records within 20 days, please provide the responsive records that are available as of the deadline.

As a non-profit, public interest research institute, TPPF requests a fee waiver under 5 U.S.C. § 552(a)(4)(A)(iii). TPPF is a non-profit, non-partisan research institute dedicated to promoting and defending liberty, personal responsibility, and free enterprise throughout Texas and the nation. For decades, TPPF has worked to advance these goals through research, policy advocacy, and impact litigation.

Since its inception in 1989, the Foundation has emphasized the importance of limited government, free market competition, private property rights, and freedom from regulation. In accordance with its central mission, the Foundation has hosted policy discussions, authored research, presented legislative testimony, and drafted model ordinances to reduce the burden of government on Texans. Historically, the Foundation has worked through its Life:Powered project to advocate for energy policies that promote economic freedom and advance the human condition.

The requested information is “likely to contribute significantly to public understanding of the operations or activities of the government.” 40 C.F.R. § 2.107(l)(1). The requested information is

not “primarily in [TPPF’s] commercial interest,” because as a non-profit, public interest research institute we are not engaged in a commercial pursuit. *Id.* This request seeks communications from EPA Principal Deputy General Counsel, Melissa Hoffer and thus directly “concerns ‘the operation or activities of the government.’” *Id.* at § 2.107(l)(2)(i). The requested information is “‘likely to contribute’ to an increased public understanding of those operations or activities.” *Id.* at § 2.107(l)(2)(ii). Part of Life:Powered initiative’s core mission is to inform the national discussion about energy and the environment, so the disclosure will surely contribute to “the understanding of a . . . broad audience of persons interested in the subject.” *Id.* at § 2.107(l)(2)(iii). Finally, this is an area where the disclosure is “likely to contribute ‘significantly’ to public understanding” *Id.* at § 2.107(l)(2)(iv). Should this request for a fee waiver be denied, we authorize \$250 to be expended for the reasonable costs associated with searching for and copying these records. However, should these costs exceed \$250, please contact me prior to proceeding.

It is worth noting that TPF is submitting separate FOIA requests seeking records on different subject matters and focused on different offices within EPA. We submit these requests separately because of their unique focus, and not for the purpose of avoiding fees. *See id.* at § 2.107(i).

We look forward to your response to this matter. Should you have any questions, please contact me at jisaac@texaspolicy.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Isaac', with a stylized flourish at the end.

Hon. Jason Isaac
Director, Life:Powered
Texas Public Policy Foundation